

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
January 30, 2014

4:00 P.M. SPECIAL SESSION

CONDUCTING	Mayor Richard F. Brunst, Jr.
ELECTED OFFICIALS	Councilmembers Hans Andersen, Margaret Black, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner
APPOINTED STAFF	Jamie Davidson, City Manager; Richard Manning, Administrative Services Director, Greg Stephens, City Attorney; Steve Earl, Deputy City Attorney; Karl Hirst, Recreation Director; Chris Tschirki, Public Works Director; Bill Bell, Development Services Director; Scott Gurney, Interim Public Safety Director; Charlene Crozier, Interim Library Director; Jason Bench, Interim Planning Division Manager; and Taraleigh Gray, Deputy City Recorder
MACQUARIE STAFF	Nicholas Hann, Executive Director; Duncan Ramage
UTOPIA CHAIRMAN	Wayne Pyle, City Manager, West Valley City
INVOCATION / INSPIRATIONAL THOUGHT	Councilmember Mark Seastrand
PLEDGE OF ALLEGIANCE	Councilmember Hans Andersen
SCHEDULED ITEMS	

4:00 P.M. PRESENTATION & DISCUSSION
UTOPIA / UIA – Macquarie Private / Public Partnership

Mayor Brunst welcomed all in attendance and then turned the time to Wayne Pyle, City Manager of West Valley City.

Mr. Pyle said their intent was to get information as wide spread as possible. They want to provide an overview of the basic proposal for a private/public partnership with Macquarie for the UTOPIA network.

Mayor Brunst turned the time over to Nicholas Hann, executive director for Macquarie.

Mr. Hann said he was the senior managing director and co-heads the Public Infrastructure Group. He gave an overview of Macquarie and an update of where the company was at. Mr. Hann said they are based in Vancouver, British Columbia which was the first jurisdiction in North America to formalize an approach to the public/private partnerships with introducing profit. This took place fifteen years ago.

Macquarie, the largest and most innovative investment company in the Australian marketplace, ventured to North America twenty years ago. It is regarded as a pioneer in public infrastructure and recognizes public infrastructure assets as attractive ventures.

He explained that a public/private partnership was essentially an arrangement where the public sector decided what services to provide, and then they look to the private sector to design and build that asset and maintain and build the asset over thirty to forty years. Either user charges or availability charges—based on performance—were used to finance the asset. Macquarie does not get paid if the asset does not perform over the long term. The local government entity (the individual cities) retains ownership. The arrangement would be terminated and the cities would take back the assets if Macquarie did not perform. Because of that, Macquarie is driven to do a good job.

Mr. Hann said the company was made up of financiers and very experienced developers. They do not design and build the networks, but they are experienced in taking the risks necessary to build out the system. Macquarie ensures build-outs are done on time and within budget. Macquarie would manage the asset over the long term.

Examples of projects Macquarie has taken part include roads, ports, airports, transit systems in many countries, schools, hospitals, and prisons. Macquarie owns and manages the developers of about nine toll roads around the U.S.

In all Macquarie's activities they have been a provider of the infrastructure for the services provided. Mr. Hann said the company was interested in long term assets; they are investors looking for stable long-term returns.

He said, typically, there was an expectation that the public sector could borrow money for less because of the power of taxation. However, there is growing evidence on the risk basis that the private sector can borrow as competitively as the public sector can.

Mayor Brunst asked what brought Macquarie to UTOPIA. Mr. Hann indicated that Macquarie has raised a lot of capital in the U.S. and is looking for opportunities to invest those capital funds. Macquarie is excited by opportunities in the fiber optic network. Macquarie identified UTOPIA and provided an unsolicited proposal to help complete the build-out of UTOPIA's network.

Mayor Brunst asked Mr. Hann to explain the predevelopment agreement presented in November. Mr. Hann described the four milestones Macquarie had outlined.

Milestone One:

- Consulting phase - producing cost for build-out maintenance and refreshment of network
- Developing legal models and how that could be implemented

- Conducting market research
 - What UTOPIA wants; what UTOPIA wants to pay
 - Finding out how citizens feel about the private/public partnership
- Utilization of external consultants
- Results of the study would be available in five to six weeks.
- Would provide a scope of the infrastructure build-out, including what it will cost to complete, operate, and maintain over the long term.
- Would be a proposal for how Macquarie could deliver the objectives of UTOPIA.

Mr. Hann indicated that the UTOPIA cities would have to decide if they like it or not and if they want to proceed with it. If UTOPIA decides not to proceed, the UTOPIA would need to reimburse Macquarie for external consultant information. This information is of value to UTOPIA regardless of if they decided to move forward with Macquarie or not.

Mayor Brunst asked Mr. Hann do give an overview of the following three milestones. Mr. Hann addressed the following.

Milestone Two:

- Dig down deeper into the approach
- Narrow range of options to be able to identify with certainty the product the cities will receive
- Similar time-frame to milestone one, approximately six weeks
- Cost for milestone two is greater due to the detail entailed in identifying the precise costs of the infrastructure build-out.
- A decision to proceed or cease would be required at the end of milestone two.

Milestone Three:

- Move toward financial closure
- More commitments are made to the cities
- Cost of milestone three is paying the lawyers to draw up the arrangement

Milestone Four:

- Incurring cost of going to market
- Mutually progressing through divisions, Macquarie and cities committing more to each other

Mr. Hann indicated that if the process was set, Macquarie and UTOPIA could be at financial closure and actually begin building out the network by the summer of 2014. Macquarie was motivated to begin as quickly as possible, consistent with UTOPIA's due process.

Mayor Brunst asked how long the build-out would take and what it would entail. Mr. Hann said UTOPIA was currently available to 20,000 addresses with 12,000 customers. There were approximately 153,000 homes to hook up across the 11 UTOPIA cities. UTOPIA has a lot of trunk lines in place, so the majority of the build-out would be the local hook ups. It would be necessary to "refresh" some of the existing elements of the network.

Mayor Brunst asked where UTOPIA's role would end and where the service provider role would begin. Mr. Hann said Macquarie would be an open-access provider of the infrastructure. UTOPIA was required by law to see that the end service to the consumer was provided by service providers. He said Macquarie had been meeting with service providers who believe they could significantly increase the take-up numbers for use of the network.

Mr. Sumner asked if (1) all eleven cities would have to agree to use Macquarie, (2) who would be responsible for the cost if Orem were to back out, (3) and who would be monitoring the cost should the cost go up.

Mr. Hann said Macquarie would not expect all eleven UTOPIA cities to agree to move forward, but as long as enough cities agreed participate to make it a viable project, then Macquarie would move forward in building out the network. Orem would be responsible for its percentage within UTOPIA, which was currently twenty-two percent.

Mayor Brunst asked Mr. Hann to address who would be financially responsible for the build-out. Mr. Hann said Macquarie would fund the build-out. The build-out would not require any additional city financial debt responsibility.

Mayor Brunst asked if there would be a user fee to each house, whether services were used or not. Mr. Hann said it would be structured similar to water service; citizens pay for basic cost to provide this utility service. It would at the discretion of each city to take the approach they want to take. In return, every house would receive basic service without additional cost. Basic service could be basic Internet or phone service or home security if the homeowner did not use Internet.

Mr. Pyle said there was a price for being able to "ride the network," but one important benefit would be providing each home with a fiber connection.

Mr. Hann gave the following reasons for building a ubiquitous network:

- Significant efficiencies
- Avoided problems that jurisdictions face – the digital divide – some neighborhoods received good broadband access while others did not
- Everyone would get a service that was valuable – fiber was very much a utility, much like electricity
- Fiber to the home was not the end game. Cities would have the ability to provide city services, for example, remote meter reading, security services, and a citywide WiFi network for free to citizens.

He said Macquarie saw fiber as a utility. It was tremendously important that homeowners got to choose their own service providers.

Mr. Andersen asked if there would be potential for citizens to opt-in or opt-out.

Mr. Hann said the payment to build-out and provide performance was on a per-address basis. How cities decided to proceed after build-out was up to their discretion. If they wanted to provide a discount or subsidy from general taxation, each municipality city could decide how to do that.

Mr. Andersen asked if the utility fee would be applied at the same rate to all the involved cities. Mr. Pyne said it would, but each city would have to decide how to address who had contributed what. New cities that join later would have a different rate.

Mr. Hann reiterated that Macquarie would be building, operating, refreshing, and maintaining the project. Macquarie would be taking on all the risk to deliver the required performance standards. Macquarie would not loan UTOPIA cities money. The only obligation on the parts of the cities was to make payments to Macquarie, which each city would collect through a utility fee. The partnership would be based on performance standards outlined by the cities.

Mr. Macdonald asked what would happen with those residents who choose not to pay for the service, those who did not use Internet, phone, or home security service.

Mr. Pyne said there were not many people who fell into that category. The answer would be that the cities could have the flexibility to address those types of concerns individually.

Mr. Sumner asked what entity would approve the milestones, the UTOPIA board or the cities.

Mr. Hann said he believed it would be a combination of both the UTOPIA board and the eleven cities involved. The UTOPIA board had no authority to bind any city to the transaction. UTOPIA members had to be comfortable with the proposed direction.

Mr. Davidson said that, from the public service perspective, while some benefit more than others, the infrastructure did have an overall public benefit. Services the cities were responsible for providing had certain aspects that have to be outsourced. For example, Public Safety vehicles all required access to the Internet, irrigation systems, water tanks, parks and recreation facilities all required connectivity as well. Currently, the City incurred significant cost to provide necessary services, and building out the infrastructure would provide public benefit. Mr. Davidson asked that the Council note the resources would be included in the overall discussion .

Mr. Hann added that, if the cities were to give the network to a proprietary user, then the cities would become hostage. Electronics found at either end were shorter-term assets than the fiber in the ground, which was a thirty- to forty-year asset.

Mr. Andersen referenced a meeting held October 23, 2014, and said he thought the Council would vote on spending the \$500,000. He said he was concerned that this was already spent. He asked if the City Council would vote on the completion of milestone two.

Mr. Pyne said the discussion at the meeting in October was centered on what needed to happen and how to approach it. This meeting did not proclaim that cities had to vote to move forward. Some cities wanted to vote and those that wanted to did so by resolution.

Mr. Seastrand and Mr. Macdonald left the discussion at 5:44 p.m.

Mr. Davidson said the ongoing discussion of UTOPIA had been a common topic within the city. He said the charge the citizens have given to leaders was to develop solutions. In order to do that, the

City had to understand the challenges at hand and found it necessary to garner information in order to move forward. It would be impossible to develop solutions without information that the first milestone would yield. Mr. Davidson added that it would not be prudent to go forward and make recommendations without collecting the phase one foundational data. Staff understood the cost and accepted ownership of the information should the City choose to exit in the future. Mr. Davidson counseled that this was not a stranded investment, but was rather information needed in order to move forward.

Mayor Brunst asked Mr. Hann to explain the fees and if the cost to the consumer would ever go up. Mr. Hann said the fees would be indexed in some way to the rate of inflation, making it easier to predict operating costs. With no inflation up front, the fee would be higher to begin, which would lend to intergenerational equity. Mr. Hann reiterated that the fee was fixed. Macquarie would be providing a guaranteed service for thirty years, and the fee might be indexed to address inflation, either in full or in part.

Mayor Brunst acknowledged the different ways of connectivity in the Orem community. He reported meeting with several different Internet service providers. He reiterated Orem's goal was to provide fiber connectivity to every home. The citizens would have to decide if that was what they wanted.

Mrs. Black then summarized what Mr. Hann had reported:

- The basic fixed fee would be determined and would cover the cost of constructing, maintaining, and operating the system for thirty years.
- That determined fee would be guaranteed for thirty years.
- The base fee would be fixed, and Macquarie would not be permitted to change the fee at a later time.
- The cities would have to decide how to index the fee to account for inflation.
- Mr. Hann had said, in his experience, a flat, fixed fee for thirty years was not the best way to go because it put a lot of expense on older individuals versus younger individuals.

Mr. Andersen voiced concern regarding milestone two, saying the City Council should vote on continuing with it.

Mr. Hann thanked the Council and staff for the opportunity to be present. He reminded the Council that this was an interactive process with all the cities involved.

Mayor Brunst acknowledged that this was a major issue for Orem and expressed appreciation for Mr. Hann in representing Macquarie.

Mr. Sumner asked what would happen to the current UTOPIA board in case the cities moved forward. Mr. Hann said there would still be a need for UTOPIA to remain, but UTOPIA would likely be reduced in size, scope, and activity. The board would likely shrink to a contract manager, with a very small group charged with checking on how Macquarie was performing.

ADJOURNMENT

Mr. Andersen **moved** to adjourn the meeting. Mr. Sumner **seconded** the motion. Those voting aye: Hans Andersen, Margaret Black, Richard Brunst, David Spencer, and Brent Sumner. The motion **passed** unanimously.

The meeting adjourned at 6:14 p.m.

Approved: February 25, 2014

Donna R. Weaver, City Recorder